

"when the middle layer comprises a polyester, the outer layer comprises a polyolefin" is also not indefinite. The examiner is correct that the term "when" should be construed as "if". However, the combinations are clear. The a middle layer may comprise either a polyolefin, a metal foil or a polyester. The phrase means that "when, if, whenever, or under the condition that" the middle layer comprises a polyolefin, *then* the outer layer comprises a polyester, and "when, if, whenever, or under the condition that" the middle layer comprises a polyester, *then* the outer layer comprises a polyolefin. In claim 22 and 34, the phrase "a perimeter" requires no antecedent basis since this is the first time the term is used and therefore it provides its own basis. For these reasons it is submitted that the 35 U.S.C. 112 rejections should be withdrawn.

Claims 22-23, 27-32 and 34 stand rejected under 35 U.S.C. 102 over Takagaki, et al. It is respectfully asserted that this ground of rejection is not well taken.

The present invention claims a package comprising a casing which defines an inner compartment, said casing comprising a pair of overlapping chemical barrier films, each of said chemical barrier films comprising in order from the inner part of the package to the outer part of the package:

- a) an inner layer comprising an unoriented nylon;
- b) a middle layer comprising either a polyolefin, a metal foil or a polyester attached to a surface of the inner layer; and
- c) an outer layer comprising either a polyolefin or a polyester attached to a surface of the middle layer;

such that when the middle layer comprises a polyolefin, the outer layer comprises a polyester, and when the middle layer comprises a polyester, the outer layer comprises a polyolefin,

and wherein the overlapping chemical barrier films are sealed together by directly attached portions of the inner nylon layers around a perimeter.

A cross section of the films may be represented as follows:

UNORIENTED NYLON
POLYOLEFIN, METAL FOIL OR POLYESTER
POLYOLEFIN WHEN MIDDLE LAYER IS A POLYESTER POLYESTER WHEN MIDDLE LAYER IS A POLYOLEFIN

Takagaki, et al. does not show this specific structure.

The examiner is correct that Takagaki, et al. shows a multilayered structure where some of the layers may comprise a stretched nylon, an aluminum foil, a polyester or a polyolefin. However, in no instance do they show or suggest the requirement of an unoriented nylon. As stated in the specification on page 4, line 12, "it is important to the scope of the invention that the inner layer comprise an unoriented nylon structure." One reason for this is that unoriented nylon can be sealed to itself. In every instance where Takagaki, et al. mention a nylon, it is always a "stretched", i.e. oriented nylon. Takagaki, et al. recognize that his stretched nylon films cannot be heat sealed to each other (see col. 24, lines 36, et seq.). However, their solution is to provide small holes in the nylon seal lines so that the next layer of polypropylene will melt through the holes to provide the heat sealing. This problem is overcome by the instant invention by using unoriented nylon layers. Therefore, when the instant overall structure is folded, these unoriented nylon layers are *directly sealed to one another* around a perimeter of the container. This is not possible with the structure of Takagaki, et al. In addition, although Takagaki, et al. shows a multilayered structure where some of the layers may comprise a stretched nylon, an aluminum foil, a polyester or a polyolefin, Takagaki, et al. does not describe the particular structure which is presently claimed and illustrated in the graphic representation shown above. For these reasons it is submitted that the 35 U.S.C. 102 rejection should be withdrawn.

Claims 24-25 stand rejected under 35 U.S.C. 103 over Takagaki, et al. in view of Rivett, et al. It is respectfully asserted that this ground of rejection is not well taken. The arguments concerning Takagaki, et al. apply equally here and are repeated from above. It is submitted that Rivett, et al adds nothing to Takagaki, et al. While Rivett, et al may describe a solvent containing article within *their* structure, there is no suggestion that such would or could be suitable contained within the structure of Takagaki, et al. or within the structure of the present invention. Nowhere does Rivett, et al suggest the use of an unoriented nylon innermost layer which when folded *directly seals to itself* around a perimeter of the container. In contrast, the Rivet, et al heat sealing requires the use of a separate, fourth heat sealing layer 18 which is described on column 7, lines 5-12 to be a non-nylon. For these reasons it is submitted that the 35 U.S.C. 103 rejection should be withdrawn.

Claim 26 stands rejected under 35 U.S.C. 103 over Takagaki, et al. in view of Deflander. It is respectfully asserted that this ground of rejection is not well taken. The arguments concerning Takagaki, et al. apply equally here and are repeated from above. It is submitted that Deflander adds nothing to Takagaki, et al. In the first instance, Deflander pertains to a completely different type of container, i.e. like in their figure 4 which is self stranding and is formed from rigid polymer walls rather than a multilayered film which folds upon itself and seals to itself. While the Deflander, et al structure certainly may be used to contain motor oils, it has a configuration completely different from the present invention. While the container may comprise any of the materials listed on column 6, lines 30-46, the structure is very different from that shown in the graphic above. There is also no suggestion *from the art itself* to combine with Takagaki, et al, and even if so does still does not form the instant invention. Importantly, nowhere does Deflander mention an unoriented nylon much less sealing an unoriented layer upon itself to form a pouch-like container. For these reasons it is submitted that the 35 U.S.C. 103 rejection should be withdrawn.

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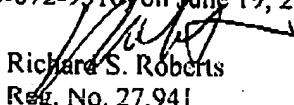
Claim 30 stands rejected under 35 U.S.C. 103 over Takagaki, et al. in view of Ng, et al. It is respectfully asserted that this ground of rejection is not well taken. The arguments concerning Takagaki, et al. apply equally here and are repeated from above. It is submitted that Ng, et al adds nothing to Takagaki, et al. As appreciated by the examiner, Takagaki, et al do not mention nylon 6 or 66. Ng, et al certainly show a heat sealable layer of unoriented nylon 6 or 66 attached to a polyolefin. However, Ng, et al does not in and of itself show or suggest the structure illustrated above, nor would the combination of Takagaki, et al and Ng, et al suggest the structure illustrated above. Likewise there is no suggestion that the unoriented nylon 6 or 66 of Ng, et al could or should be substituted for the oriented nylon of Takagaki, et al, because Takagaki, et al specifically teach an oriented nylon. Although unoriented nylons are certainly known *per se*, since Takagaki, et al specifically teach an oriented nylon, one skilled in the art would not be directed or motivated to substitute an unoriented nylon therefore. For these reasons it is submitted that the 35 U.S.C. 103 rejection should be withdrawn.

The undersigned respectfully requests re-examination of this application and believes it is now in condition for allowance. Such action is requested. If the examiner believes there is any matter which prevents allowance of the present application, it is requested that the undersigned be contacted to arrange for an interview which may expedite prosecution.

Respectfully submitted,


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I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office (FAX No. 703-872-9310) on June 19, 2003.


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